



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

64 No. Main Street, P.O. Box 2008, Concord, NH 03302-2008

(603) 271-2457 FAX (603) 271-7894



Michael Gaudette, d/b/a)
Gaudette's Septic Service)
RFD West Side Road)
North Conway, New Hampshire 03860)

ADMINISTRATIVE ORDER

No. WD 98-22

July 28, 1998

A. INTRODUCTION

This Administrative Order is issued by the Department of Environmental Services, Water Division, to Michael Gaudette, d/b/a Gaudette's Septic Service pursuant to RSA 485-A:22. This Order is effective upon issuance.

B. PARTIES

- 1 The Department of Environmental Services, Water Division ("DES") is a duly constituted administrative agency of the State of New Hampshire, having its principal offices at 6 Hazen Drive, Concord, NH 03301.
2. Michael Gaudette is an individual doing business as Gaudette's Septic Service, having a mailing address of RFD West Side Road, North Conway, NH 03860.

C. STATEMENT OF FACTS AND LAW

- 1 Michael Gaudette, d/b/a Gaudette's Septic Service, is a septage pumping and hauling company in Bartlett, NH ("Gaudette"). Gaudette owns and operates from a property in Bartlett, NH identified in Bartlett tax records as tax map part and parcel number 6WSTSD/80L03 ("the Property").
2. Gaudette operates under septage hauler permit numbers NHS235 and NHS46 issued by DES in accordance with the State of New Hampshire's Sludge and Septage Management Rules Env-Ws 800 on April 10, 1997 ("the Permits").

3. The Permits authorize Gaudette to remove or transport septage to a site permitted under Env-Ws 800 or to a wastewater treatment facility permitted under RSA 485-A:13.
4. Env-Ws 803.03(b) requires septage to be managed at a site or facility in possession of a permit issued in accordance with Env-Ws 800, a surface water discharge permit issued in accordance with Env-Ws 405, a groundwater management permit issued in accordance with Env-Ws 410, or a solid waste facility permit issued in accordance with Env-Wm 302.
5. Env-Ws 803.03(c) requires septage storage tanks to be registered.
6. Env-Ws 803.08(a) requires a permit holder to maintain records of each load of septage hauled, including identification of the date hauled, the name and address of the client, the source and volume of the septage hauled, and the site or wastewater treatment facility at which the load was discharged.
7. Env-Ws 804.06(a) requires a septage hauler to keep a copy of the septage hauler's permit in the vehicle at all times.
8. Env-Ws 804.07(d) requires the permit holder to maintain all vehicles used to haul septage so that no material will leak, spill, or run out of the tank or connections during the transfer or transportation of septage.
9. Env-Ws 806.08(a) (1) requires that septage land application sites must comply with the federal regulations 40 CFR Part 503.13 (c) calculation of annual application rate for septage, 40 CFR Part 503.15 (b) pathogen reduction requirements for septage, and 40 CFR Part 503.15 (d) vector attraction reduction requirements for septage.
10. On June 25, 1998, DES personnel inspected the Property in response to a complaint about improper disposal of septage ("the Inspection").
11. During the Inspection, Gaudette informed DES personnel that he was disposing of septage on the Property.
12. The Property has not been permitted in accordance Env-Ws 806 to land apply septage or Env-Ws 807 to process, treat, or dispose of septage.
13. At the time of Inspection, Gaudette was storing septage at the Property in an unregistered storage tank.
14. As part of the Inspection, DES asked Gaudette to produce his hauling records. Gaudette did not produce any of the required records.

15. At the time of the Inspection, Gaudette's hauling vehicle (NHS46) had a load of septage in the tank and there were no records available for that load. Gaudette stated that he would send copies of all his records to DES by July 2, 1998.
16. As of the date of this Order, DES has received no records from Gaudette.
17. During the Inspection, DES inspected the hauling vehicle (NHS46) and did not find a copy of the permit in the vehicle.
18. During the Inspection of the hauling vehicle (NHS46), septage was seen to be leaking from one of the outlet connections.
19. During the Inspection, Gaudette stated he was not lime stabilizing the septage prior to disposal for pathogen and vector attraction reduction, and did not know or have documentation for the application rate for the Property. Also, the access to the Property was not restricted by any fencing or signs.

D. DETERMINATION OF VIOLATIONS

1. Gaudette has violated Env-Ws 803.03(b) by managing septage at a place which does not have a permit issued in accordance with Env-Ws 800, a wastewater treatment facility permit or groundwater management permit issued under RSA 485-A:13, or a solid waste facility permit issued under RSA 149-M.
2. Gaudette has violated Env-Ws 803.03(c) by storing septage in a tank that has not been registered.
3. Gaudette has violated Env-Ws 803.08(a) by not maintaining records of each load of septage hauled.
4. Gaudette has violated Env-Ws 804.06(a) by not having a copy of the permit in his hauling vehicle.
5. Gaudette has violated Env-Ws 804.07(d) by not maintaining outlet connections such that no material will leak out of the tank.
6. Gaudette has violated federal regulations 40 CFR Part 503.13 (c) by not calculating the annual application rate for septage at this location.
7. Gaudette has violated 40 CFR Part 503.15 (b) by not treating the septage to reduce pathogens prior to disposal and not maintaining required site restrictions.

8. Gaudette has violated 40 CFR Part 503.15 (d) by not implementing vector attraction reduction methods.

E. ORDER


Based on the preceding determination, DES orders Michael Gaudette, d/b/a Gaudette Septic Service, as follows:

1. Immediately refrain from using the hauling vehicle (permit no. NHS235) as a septage storage tank. Within 30 days of issuance of this Order submit to DES documentation of motor vehicle registration and inspection for the hauling vehicle (permit no. NHS235).
2. Immediately refrain from spreading or disposing of any septage on the Property (identified by tax map part and parcel number 6WSTSD/80L03) or any other location not having the appropriate permits.
3. Within 45 days of issuance of this Order, submit a detailed plan ("the Plan") for the removal and proper disposal of all septage illegally disposed at the Property, including a proposed schedule for these activities.
4. Upon approval by DES of the Plan, implement the Plan in accordance with the approved schedule.
5. Within 30 days of issuance of this Order, submit to DES all records required by Env-Ws 803.08(a) for the calendar years of 1997 and 1998.
6. Refrain from hauling any septage until all requirements of Env-Ws 800 relative to vehicle licensing and integrity have been met.


F. APPEAL

If you are aggrieved by this Order you may appeal this decision to the New Hampshire Water Council in accordance with N.H. Admin. Rules Env-WC 200. Such appeal must be filed with the Council within thirty (30) days of the issuance of this Order and must be addressed to Chairman, Water Council, 6 Hazen Drive, PO Box 95, Concord, N.H. 03302-0095. Filing an appeal of this Order will not automatically relieve you of your obligation to comply with the Order.

Please note that RSA 485-A:22 provides for civil and criminal penalties and administrative fines for violations noted in this Order, as well as for violating the Order. Please also note that the Permits may be subject to suspension or revocation based on the facts alleged in this Order.


COPY

Harry T. Stewart, P.E.
Director


COPY

Robert W. Varney
Commissioner

cc: Gretchen Rule, Enforcement Coordinator, DES
Michael J. Walls, Esq., NHDOJ
Paul Currier, P.E. DES
Carroll County Registry of Deeds